



Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Department of Education
Virginia Administrative Code (VAC) citation	8 VAC 20-350
Regulation title	Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits
Action title	Regulation will be repealed
Date this document prepared	September 20, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

This regulation governs the establishment, operation and management of private career schools and private day schools for students with disabilities.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

This regulation governs two different types of school, private career schools and private day schools for students with disabilities. The private career schools have been transferred to the State Council of Higher Education for Virginia. That agency promulgated regulations to govern the private day schools and they became effective on July 26, 2006. The private day schools for

students with disabilities remain under the purview of the Department of Education. New regulations were promulgated governing those schools and they became effective on September 10, 2004.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

The Code of Virginia, § 22.1-16, vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This regulation governs private career schools. The management of these proprietary schools was transferred to the State Council of Higher Education for Virginia (SCHEV) by the 2004 General Assembly via House Bill 637. A second enactment clause to House Bill 637 required

That the Board of Education's regulations in effect on June 30, 2004, that were promulgated pursuant to Chapter 16 (§ 22.1-319 et seq.) of Title 22.1 concerning the private trade, technical, business and correspondence schools (commonly referred to as "proprietary schools") for which the regulatory authority is transferred by this act from the Board to the State Council of Higher Education shall remain in force and shall be deemed to be regulations of the State Council of Higher Education until such time as the Council shall promulgate regulations pursuant to this act.

In accordance with that legislation, the Virginia Board of Education's regulations remained in effect until SCHEV could promulgate regulations to govern those schools. SCHEV promulgated the Regulations Governing the Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates, 8 VAC 40-31, and they became effective on July 26, 2006. As of that date, the Board of Education's regulations concerning the private career schools were no longer in effect.

Private day schools for students with disabilities were also governed by the Regulations Governing the Operation of Proprietary Schools and Issuing of Agent Permits. In 2004, the Board of Education promulgated Regulations Governing the Operation of Private Day Schools

for Students with Disabilities, 8 VAC 20-670, to govern those schools. These regulations became effective on September 10, 2004.

Therefore, these regulations have been replaced by two new regulations and must be repealed.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast track process is applicable because the repeal of this regulation is noncontroversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

There are no substantive changes. The regulation is being repealed.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
2) the primary advantages and disadvantages to the agency or the Commonwealth; and
3) other pertinent matters of interest to the regulated community, government officials, and the public.
If there are no disadvantages to the public or the Commonwealth, please indicate.

The advantage to the Board of Education is the repeal of a regulation that is no longer in effect. The advantage to the public is the elimination of the confusion created by having two sets of regulations purporting to govern the same schools. There are no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are

no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

This section does not apply because this regulation is being repealed.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities that would be particularly affected.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation is being repealed.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

This regulation is being repealed. There is no economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	
Projected cost of the regulation on localities	
Description of the individuals, businesses or other entities likely to be affected by the regulation	
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity,	

including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There is no viable alternative to repealing this regulation.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The repeal of this regulation will have no impact on the institution of the family and family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if	Current requirement	Proposed change and rationale
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	applicable		
8 VAC 20-350- 10 et seq.		This regulation governs the establishment, operation and management of proprietary schools, including schools for students with disabilities.	Repeal because the Board of Education no longer has the authority to regulate proprietary schools and new regulations have been promulgated to govern special education schools.

Enter any other statement here